

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

NELVETTE SIEMION, DBA/White
Buffalo Ranch,

CV 11-120-BLG-RFC-CSO

Plaintiff,

ORDER

vs.

VIANNA STEWERT, DEBBIE SCOTT,
CLARA HUGS, TY TEN BEAR,
PATRICIA BUGAS-HARRIS, MARTIN
ANSETH, WILLIAM HE DOES IT,
PHOEIBE KNAPP-WARREN, PAUL
WARREN, SAM REDDING, LELAND
WALKING BEAR, KELLY DEE PASSES,
CEDRIC BLACK EAGLE, LARRY
TOBACCO, WILLIAM F. SNELL III
PRETTY SHIELD, CODY WILHELM,
CHAZ BENDS, VERNON HILL, PETE
MOLINA, DIANE CABRERA, and
PARTIES UNKNOWN,

Defendants.

On January 10, 2012, the Court issued an Order advising Brandon L. Siemion, appearing *pro se* and purporting to act with “durable power of attorney” on behalf of his mother and “Trustor,” Nelvette Siemion, that he would not be permitted to represent Nelvette Siemion in this Court because he is not licensed to practice law. *Court*

Doc. 29 at 5-6. The Court also: (1) attempted to describe the Complaint's allegations, *id. at 2-4*; (2) listed pending motions, *id. at 4-5*; (3) pointed out certain pleading defects in the Complaint, *id. at 2*; (4) provided guidance for addressing the defects, *id. at 7-8*; and (5) directed Brandon L. Siemion and Nelvette Siemion to "either: (a) appear through licensed counsel authorized to appear in this Court, or (b) file separate Complaints each on their own behalf []" by January 31, 2012. *Id. at 2, 7-8.*

On January 30, 2012, Nelvette Siemion, appearing *pro se*, timely filed a pleading styled "Amended Complaint, And Statements of Claims For Relief." *Court Doc. 32.* On the face of the Amended Complaint, Brandon L. Siemion is no longer a named Plaintiff and has not filed a separate complaint on his own behalf. He is, therefore, no longer a party to the case.

Nelvette Siemion's Amended Complaint lists 14 counts and for each count specifically names the defendant or defendants against whom it is asserted. In the caption of the Amended Complaint, Nelvette Siemion names the same Defendants as were named in the

original complaint, except for Thomas Hill. Nelvette Siemion does, however, list Thomas Hill as a person against whom Count 10 of her Amended Complaint is asserted. *Court Doc. 32 at 18.*

As noted, the original complaint was filed while Nelvette Siemion was purportedly being represented by an individual unlicensed to practice law. Also, as reflected in the Court's January 10, 2012 Order and in some of the Defendants' motions,¹ the original complaint was not clear respecting the precise claims asserted or the identities of the defendants against whom each claim was intended to be asserted. Nelvette Siemion has now filed her Amended Complaint, *pro se*, identifying with more particularity the claims asserted and the defendants against whom each is brought.

The amended pleading supersedes the original and "after

¹See, e.g., brief supporting motion to dismiss filed by Defendants Martin Anseth, Patricia Bugas-Harris, William He Does It, Phoebe Knapp-Warren, Sam Redding, Leland Walking Bear, and Paul Warren (the "private Defendants"), *Court Doc. 12 at 15*; brief supporting Defendant Pete Molina's motion to dismiss and alternative motion for more definite statement, *Court Doc. 19 at 3-4*; and brief supporting motion to dismiss, motion for more definite statement, and motion for summary judgment filed by Defendants William He Does It, Clara Hugs, Debbie Scott, Vianna Stewert, and Ty Ten Bear, *Court Doc. 24 at 9-12*.

amendment the original pleading no longer performs any function and is ‘treated thereafter as non-existent’” *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992) (*citing Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967)). Any motions directed to the original pleading, therefore, are moot. The parties may, of course, file new motions, as appropriate, directed to the Amended Complaint.

ORDER

Accordingly, **IT IS ORDERED** that the following motions are MOOT:

1. Motions filed on December 6, 2011, by Defendants Martin Anseth, Patricia Bugas-Harris, William He Does It, Phoebe Knapp-Warren, Sam Redding, Leland Walking Bear, and Paul Warren (the “private Defendants”), *Court Doc. 11*;
2. Motions filed on December 28, 2011, by Defendant Pete Molina (“Molina”), *Court Doc. 19*;
3. Motions filed on December 30, 2011, by Defendants William He Does It, Clara Hugs, Debbie Scott, Vianna Stewert, and Ty Ten Bear (the “Federal Defendants”), *Court Doc. 23*;
4. Motions filed on December 30, 2011, by Defendant Kelly Dee Passes (“Passes”), *Court Doc. 26*; and
5. Motions filed January 3, 2012, by Defendants Cedric Black Eagle, Chaz Bends, Diane Cabrera, Thomas Hill, Vernon Hill, William F. Snell Pretty Shield, III, Larry Tobacco, and Cody Wilhelm (the

“Tribal Defendants”), *Court Doc. 27.*

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 15(a)(3), Defendants must answer or otherwise appear by appropriate motion **on or before February 13, 2012.**

IT IS FURTHER ORDERED that the Clerk of Court shall terminate Brandon L. Siemion as a plaintiff in this case.

DATED this 1st day of February, 2012.

/S/ Carolyn S. Ostby
United States Magistrate Judge